

APPEAL NO. 041431
FILED AUGUST 3, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 19, 2004. The hearing officer determined that the respondent (claimant) sustained a compensable occupational disease injury on _____, and that he had disability from October 24 through November 3, 2003, and from November 25, 2003, through the date of the hearing. The appellant (carrier) appealed these determinations asserting that the hearing officer committed legal and evidentiary error. The claimant urges affirmance.

DECISION

Affirmed.

The carrier asserts that the hearing officer erred in excluding a peer review report for failure to timely exchange. To obtain reversal of a judgment based upon the hearing officer's abuse of discretion in the admission or exclusion of evidence, an appellant must first show that the admission or exclusion was in fact an abuse of discretion, and also that the error was reasonably calculated to cause and probably did cause the rendition of an improper decision. Texas Workers' Compensation Commission Appeal No. 92241, decided July 24, 1992; *see also Hernandez v. Hernandez*, 611 S.W.2d 732 (Tex. Civ. App.-San Antonio 1981, no writ). After reviewing the evidence in this case, we conclude that any possible error in excluding evidence in this case was not reasonably calculated to cause, nor did it probably cause, the rendition of an improper decision. We perceive no reversible error.

We have reviewed the complained-of determinations and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. The evidence is minimally sufficient to support the hearing officer's determinations regarding injury and disability. We conclude that the hearing officer's injury and disability determinations are supported by the record and are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. *Cain v. Bain*, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **ST. PAUL FIRE & MARINE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
701 BRAZOS STREET, SUITE 1050
AUSTIN, TEXAS 78701.**

Daniel R. Barry
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Edward Vilano
Appeals Judge